

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

**CHILDREN’S HEALTH DEFENSE,
ROBERT F. KENNEDY, JR.,
TRIALSITE, INC., CREATIVE
DESTRUCTION MEDIA, LLC,
ERIN ELIZABETH FINN, JIM HOFT,
DR. BEN TAPPER, BEN SWANN,
DR. JOSEPH MERCOLA, TY
BOLLINGER & CHARLENE
BOLLINGER,**

Plaintiffs,

v.

**THE WASHINGTON POST CO., THE
BRITISH BROADCASTING CORP.,
THE ASSOCIATED PRESS,
& REUTERS,**

Defendants.

DOCKET NO.: 2:23-cv-00004-Z

**PLAINTIFFS’ MOTION FOR
ISSUANCE OF LETTERS ROGATORY**

PLAINTIFFS’ MOTION FOR ISSUANCE OF LETTERS ROGATORY

Plaintiffs Children’s Health Defense *et al.* (“Plaintiffs”), through their attorneys of record, hereby move this Court for an order that letters of request (letters rogatory) issue to the appropriate authority having jurisdiction of civil causes in and for the United Kingdom, and states as follows:

1. Defendant The British Broadcasting Company (“BBC”) resides in the United Kingdom. Under the laws of the United Kingdom, Plaintiffs cannot effectuate service of process without the assistance of the UK courts.

2. Plaintiffs require that process be served on the BBC pursuant to the Requests For International Judicial Assistance (Letters Rogatory) (the “Letters Rogatory”), attached hereto as Exhibit “A,” because the BBC is a necessary and indispensable party in this anti-trust action. *See Pan American v. W. Tex. Coffee Equip. Co.*, No. B-78-88, 1979 WL 1587, at *6 (S.D. Tex. Jan. 31, 1978) (noting that in “antitrust action, the alleged co-conspirators are jointly and severally liable for the entire amount of damages” but that plaintiff can choose which to sue). Indeed, it appears that the BBC helped launch the partnership known as the Trusted News Initiative that is the focus of this anti-trust matter. Full and effective relief could not be provided without the BBC’s participation in the lawsuit.

3. The United Kingdom is a party to the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters. Thus, Plaintiffs could serve the BBC with process in one of several ways, including through direct service by a British solicitor. But, given the importance of the issues raised in this action, and the potential scope of monetary damages (in the tens of millions of dollars), Plaintiffs believe the most prudent course is to effectuate service through Letters Rogatory delivered through the appropriate UK tribunal.

4. “A letter rogatory is the request by a domestic court to a foreign court to take evidence from a certain witness.” *Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, n.1 (U.S. 2004). Letters rogatory “are freely granted by district courts in the United States.” *In re Banco Santander Securities-Optimal Litigation*, 732 F. Supp. 2d 1305, 1338 (S.D. Fla. 2010). While “[t]he standard pursuant to which a request for letters rogatory is evaluated is not uniform in the case law,” some courts have held that “the party opposing issuance of a letter rogatory must establish good cause for denial.” *Bisnews AFE (Thailand) Ltd. v. Aspen Research Group Ltd.*, No. 11 Civ. 3108(NRB), 2012 WL 4784632, at *3 (S.D. N.Y. Oct. 04, 2012); *Evanston Ins. Co. v.*

OEA, Inc., No. CIV S-02-1505 DFL PAN, 2006 WL 1652315, at *2 (E.D. Cal. June 13, 2006). Other courts have “required a district court denying issuance of a letter rogatory to show some reason for its decision.” *Evanston Ins. Co.*, 2006 WL 1652315, at *2; *see also Plasma Physics Corp. v. Sanyo Elec. Co., Ltd.*, No. 88 C 2274, 1989 WL 103357, at *1 (N.D. Ill. Aug. 24, 1989) (granting request for issuance of letters rogatory where the court was unable to determine that the requested evidence “does not have a reasonable relevancy”).

5. There is good cause to grant this request. As explained above, the BBC is a proper party in this action. It is subject to personal jurisdiction in this judicial district. *See Mgmt. Insights, Inc. v. CIC Enters., Inc.*, 194 F. Supp. 2d 520, 532-33 (N.D. Tex. 2001) (discussing application of jurisdictional tests in antitrust case); *see also Matsuhita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 582 n.6 (1986) (discussing extraterritorial application of Sherman Act).

Therefore, for the reasons set forth above and in the attached Letters Rogatory, Plaintiffs respectfully request that the Court grant this motion and issue the requested Letters Rogatory attached as Exhibit A as follows:

- a. This Court would sign two originals of the Letters Rogatory;
- b. This Court would then direct the Clerk of this Court to (i) enter the Letters Rogatory on the electronic docket, (ii) place the Court’s official seal upon each signed Letter Rogatory, and (iii) permit Plaintiffs’ counsel to pick up the two signed and sealed Letters Rogatory;
- c. Plaintiffs’ counsel would then transmit one set of the signed and sealed Letters Rogatory to the appropriate foreign authority through the proper diplomatic channels and send the other set of signed and sealed Letters Rogatory to their local counsel in

the United Kingdom, who may be able to expedite the process by making requests to the appropriate tribunal directly;

- d. The foreign authority would serve the summons and complaint and other case initiating documents on the BBC and return the executed Letters Rogatory, containing a proof of service on the BBC, to Plaintiffs; and
- e. This Court would provide the executed Letters Rogatory to counsel by entering it on the electronic docket or in any other manner the Court finds appropriate.

Respectfully Submitted:

/s/ Scott J. Street
Scott J. Street (*Pro Hac Vice*)
JW HOWARD/ATTORNEYS, LTD.
201 South Lake Avenue, Suite 303
Pasadena, CA 91101
Telephone: (213) 205-2800
Email: sstreet@jwhowardattorneys.com

Ryan P. Brown (Texas Bar Number: 24073967)
Ryan Brown, Attorney At Law
1222 S. Fillmore St.
Amarillo, TX 79101
Telephone: (806) 372-5711
Email: info@ryanbrownattorneyatlaw.com

Attorney for Plaintiffs

DATED: January 24, 2023

CERTIFICATE OF SERVICE

**UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF TEXAS,
AMARILLO DIVISION
Case No. 2:23-cv-00004-Z**

Children's Health Defense, et al. v. The Washington Post Co., et al.

At the time of service, I was over 18 years of age and not a party to this action. I am employed by JW Howard/Attorneys, LTD. in the County of San Diego, State of California. My business address is 600 West Broadway, Suite 1400, San Diego, California 92101.

On January 24, 2023, I caused the **PLAINTIFFS' MOTION FOR ISSUANCE OF LETTERS ROGATORY, EXHIBIT A (REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE (LETTER ROGATORY))** to be filed and served via the Court's Electronic Service upon the parties listed on the Court's service list for this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on January 24, 2023 at San Diego, California.

/s/ Dayna Dang

Dayna Dang, Paralegal
dayna@jwhowardattorneys.com